

REMARKS

1.) Claim Amendments

Applicants have amended claims 1, 25 and 44-47 to better claim the invention. Accordingly, claims 1-11, 13-14, 25-26, 28-34 and 44-47 are pending in the present patent application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 103

Claims 1-3, 9, 11, 44 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,529,600 B1 issued to Epstein et al. (hereinafter "Epstein") in view of U.S. Patent No. 6,850,564 B1 issued to Pejhan et al. (hereinafter "Pejhan"), U.S. Patent No. 5,751,346 issued to Dozier et al. (hereinafter "Dozier") and U.S. Patent No. 4,339,775 issued to Lemke et al. (hereinafter "Lemke"). Before addressing this rejection in detail, it should be noted that the Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. *MPEP 2142*. To establish *prima facie* case of obviousness, certain criteria must be met. *First*, the prior art reference or references when combined must teach or suggest all the claim limitations. *Second*, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. With the above requirements in mind, Applicants respectfully traverses this rejection **insofar as it applies to the amended claims** per discussion below.

Regarding the amended independent claim 1, the Examiner relies on four prior art references to reject this claim – Epstein, Pejhan, Dozier and Lemke. Assuming *arguendo* that the Examiner's reliance on Epstein and Dozier is correct, Applicants respectfully submit that the Examiner's reliance on Pejhan and Lemke is misplaced. More specifically, Pejhan, Lemke or their combination fails to teach or suggest "*dynamically establishing a frame rate, wherein the frame rate is a rate of processing only a portion of an entire frame.*" Turning first to Pejhan, it discloses dynamically

varying a frame rate of a pre-recorded image sequence by decoding and re-encoding the image sequence so that the re-encoded image sequence has a frame rate as requested by a client. *Column 3, lines 29-58.* It should be noted that the pre-recorded image sequence already has a frame rate associated therewith and Pejhan teaches how to dynamically change such frame rate to another frame rate to accommodate a client. See, e.g., *column 6, lines 1-9.* In other words, the Pejhan is directed to dynamically changing or modifying a frame rate during **post processing** of the pre-recorded image sequence. In contrast, the method of claim 1 does **not** dynamically change or modify a frame rate during post processing. More specifically, the method of claim 1 **dynamically establishes** a frame rate to be used for processing a portion of a frame.

Turning next to Lemke, Examiner relies on its column 2, lines 23-35 teach or suggest the established frame rate is "a rate of processing only a portion of an entire frame" as specified in claim 1. Such reliance is **incorrect**. In general, Lemke discloses an apparatus for recording information at a fast frame rate such as 2000 frames per second and thereafter displaying the recorded information at a slower frame rate such as 60 frames per second to produce a slow motion replay of the recorded information. *Abstract, column 3, lines 7-11.* Before the information is recorded, an operator would select a frame rate to be used for recording. *Column 3, lines 32-40.* Thus, the frame rate is **pre-selected** and is used for recording the **entire frame**. In contrast, the method of claim 1 **dynamically establishes** a frame rate and such frame rate is used for processing a **portion of an entire frame**.

Therefore, the cited prior references fail to teach or suggest all the claim limitations.

In addition, Applicants respectfully submit that the Examiner fails to provide some suggestion or motivation why the cited prior art references should or could be modified or combined so as to yield the method of claim 1. If the Examiner disagrees, Applicants respectfully request the Examiner to assist the Applicants by pointing out where on page 3 of the Office Action could the Applicants look for the provided suggestion or motivation. Even assuming *arguendo* that the Examiner has provided

some suggestion or motivation on page 3 of the Office Action, such suggestion or motivation is being provided in hindsight based on claimed subject matter.

Furthermore, even assuming *arguendo* that there is motivation or suggestion to combine the cited prior art references, their combination would still fail to teach or suggest the method of claim 1 since Pejhan and Lemke fail to teach or suggest certain limitations of claim 1 as discussed above.

Accordingly, claim 1 should be non-obvious and patentably distinguishable over the cited prior art references.

Regarding claims 2-3, 9 and 11, they depend from independent claim 1, which is believed to be patentable, and thus they should also be non-obvious and patentably distinguishable over Epstein in view of Pejhan, Dozier and Lemke. *MPEP 2143.03*.

Regarding the amended independent claim 44, it contains limitations that are similar to those of claim 1 and thus claim 44 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding the amended independent claim 46, it contains limitations that are similar to those of claim 1 and thus claim 46 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Claims 4-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Epstein, Pejhan, Dozier, Lemke as applied to claim 1 and in further view of U.S. Patent No. 6,518,881 B2 issued to Monroe (hereinafter "Monroe"). These claims depend directly or indirectly from independent claim 1, which is believed to be patentable, and thus they should also be non-obvious and patentably distinguishable over Epstein in view of Pejhan, Dozier, Lemke and further in view of Monroe. *MPEP 2143.03*.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Epstein, Pejhan, Dozier, Lemke as applied to claim 1 and in further view of U.S. Patent No. 6,166,729 issued to Acosta et al. (hereinafter "Acosta"). It depends from independent claim 1, which is believed to be patentable, and thus it should also be non-obvious and patentably distinguishable over Epstein in view of Pejhan, Dozier, Lemke and further in view of Acosta. *MPEP 2143.03*.

Claims 13-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Epstein, Pejhan, Dozier, Lemke, Monroe as applied to claim 4 and in further view of Acosta. These claims depend from claim 4, which is believed to be patentable, and thus they should also be non-obvious and patentably distinguishable over Epstein in view of Pejhan, Dozier, Lemke and Monroe and further in view of Acosta. *MPEP* 2143.03.

Claims 25-26, 28-29, 32-34, 45 and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,690,411 B2 issued to Naidoo et al. (hereinafter "Naidoo"), in view of Epstein, Dozier and Lemke.

Regarding the amended independent claim 25, it contains limitations that are similar to those of claim 1 and thus claim 25 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding the amended independent claim 45, it contains limitations that are similar to those of claim 1 and thus claim 45 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Regarding the amended independent claim 47, it contains limitations that are similar to those of claim 1 and thus claim 47 should be non-obvious and patentably distinguishable over the cited prior art references for reasons similar to those discussed above regarding claim 1.

Claims 30-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Naidoo, Epstein, Dozier, Lemke as applied to claim 25 and in further view of Monroe. These claims directly or indirectly depend from claim 25, which is believed to be patentable, and thus they should also be non-obvious and patentably distinguishable over Naidoo in view of Epstein in view of Epstein, Dozier, Lemke and further in view of Monroe. *MPEP* 2143.03.

CONCLUSION

Claims 1-11, 13-14, 25-26, 28-34 and 44-47 are presently standing in this patent application. In view of the foregoing remarks, each and every point raised in the Office Action mailed on September 21, 2005 has been addressed on the basis of the above remarks. Applicants believe all of the claims currently pending in this patent application to be in a condition for allowance. Reconsideration and withdrawal of the rejections are respectfully requested. However, should the Examiner believe that direct contact with Applicants' attorney would advance the prosecution of the application, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,



by Dang M. Vo
Registration No. 45,183

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502